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SUBJECT: MANAGEMENT COMMITTEE OF SPECIAL COURT FOR SIERRA
LEONE MEETS WITH PRESIDENT WINTER

11. (U) Summary. On January 29, the President of the Special Court for Sierra Leone (SCSL), Justice Renate Winter, met with the Management Committee to discuss the completion of the Charles Taylor case, residual issues such as location of the archives, future use of the Freetown facility, and other issues related to the administration of the court. End summary.

Delays in Completion of Charles Taylor Case Likely

12. (U) According to President Winter, the completion of the Charles Taylor case will likely be delayed. The biggest problem is that, beginning in September, the International Criminal Court (ICC) will not be able to provide the SCSL with unfettered use of ICC courtroom 2 for the Charles Taylor trial. Given information technology issues, it is not possible to hold an ICC case in the morning and an SCSL case in the afternoon. At best, the ICC and SCSL may be able to rotate use of the courtroom on a monthly basis. Winter has persuaded the judges hearing the Charles Taylor case (Trial Chamber 2) to make progress by sitting in July and August, and taking vacations in September, but the Taylor case will almost certainly continue beyond September.

13. (U) In addition, there are eighteen motions pending in the Taylor case, one of which challenges the Prosecutor's & joint criminal enterprise⁸ theory. Without a decision on that motion, the Prosecutor cannot close his case. President Winter has urged Trial Chamber 2 to take action on all pending motions.

14. (U) The defense may ask for more than four months to prepare its case and to prepare a motion for an acquittal. President Winter said that there is an & equality of arms⁸ agreement giving the defense a lump sum amount, without any commitment to allocate to the defense any additional time to prepare its case. If Trial Chamber 2 grants the defense more time, President Winter will not authorize any additional funds to go to the defense.

15. (U) The defense has announced that Charles Taylor will testify, and that his testimony may last as long as six months. This would significantly delay the completion of the case, pushing it well into 2010.

16. (U) The Dutch and British Management Committee members said that the SCSL must finish all of its work by the end of 2010, and that their countries would not fund the court beyond that date.

17. (SBU) The President stressed the importance of the Secretary General filling the vacant seat on the Appeals Chamber as soon as possible, so that there would be no delays at the appellate level. She suggested that she would prefer that a woman fill the seat. (Note. The United States has nominated a woman, Vermont Judge Shireen Fisher, to fill the vacancy. A UN Office of Legal Affairs panel will interview her on February 5. End note.)

¶18. (U) President Winter said that after the Appeals Chamber decides any appeal in the RUF case, it would be more cost effective to move the Appeals Chamber to The Hague, with a cost-saving of over 30 percent. Thus, President Winter,s preference is to hear the possible Charles Taylor appeal in The Hague, not in Freetown.

Future Use of Freetown Facility

¶19. (SBU) President Winter described a plan for the future use of the SCSL facility in Freetown that she said she and the Registrar have discussed, as follows: (1) The old court house should become a museum on the history of the conflict in Sierra Leone. (2) The detention facility should be transferred to the Government of Sierra Leone. (3) The court house and administrative facilities should be a training center for West African judges, in addition to office space for UN agencies or a center for international law. She said that Justice Ayoola of Nigeria,s idea of housing an ECOWAS court in the facility could be compatible with this option, as it only meets on an occasional basis. President Winter said that the Ford Foundation has expressed an interest in possibly providing funding for future use of the SCSL facilities.

¶10. (SBU) The UK pointed out that the Government of Sierra Leone, not the Management Committee, must take ownership of the site issue. The Sierra Leone representative noted that, while the issue is not within the mandate of the Management Committee, Sierra Leone will need the Committee,s &support8 and would like to work as a team.

Residual Mechanism

¶11. (SBU) President Winter said that the Yugoslavia and Rwanda Tribunals should share a residual mechanism with the Sierra Leone Court, ideally located in The Hague. Winter said that the archives should be located in The Hague together with other Tribunals, archives, with an electronic copy available for the public in Freetown. The UK pointed out that the Security Council working group on the Tribunals will not have to make decisions on residual mechanism issues until after the SCSL has already acted, given the differing scheduled completion dates.

Enforcement of Sentences

¶12. (U) Benin has agreed to take custody of eight SCSL prisoners, provided that Benin receives from USD 30,000 to USD 50,000 per prisoner per year. President Winter is seeking five-year commitments from individual European countries to fund each prisoner,s costs. So far, Austria has agreed in principle to this approach.

¶13. (U) The Sierra Leone representative said that it would be better for the sentences to be served in the same country, so that relatives and wives in particular could visit. President Winter noted that the receiving country,s rules would apply to visits, and pointed out that one prisoner has seventeen wives and forty children.

Funding

¶14. (U) President Winter is concerned that the SCSL will run out of funds later this year. She noted that Germany and Ireland are unsure whether they will make a contribution this year, as they are planning to contribute to the Special Tribunal for Lebanon.

Site Visit

¶15. (U) The Management Committee discussed the agenda for the upcoming site visit to The Hague and Freetown. USUN,s Legoff informed colleagues that a State Department representative would likely attend, but that Legoff,s attendance was still uncertain given funding issues.

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